

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUFINO J. VILLAREAL,

Defendant.

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8:07CR69

ORDER

This matter is before the court on the motion of defendant Rufino J. Villareal (Villareal) for a modification of his pretrial release conditions (Filing No. 26). Villareal seeks relief from condition 7(d) relating to employment condition 7(m) relating to use of alcohol.

Villareal asserts he is presently physically disabled and receives Social Security disability benefits after having been found unable to engage in substantial gainful activity. While Villareal is highly educated and seemingly could engage in some light or sedentary work, the court will afford Villareal the benefit of the doubt and grant his request that he not be required to seek employment. Accordingly, Villareal's request for modification of the release order as it applies to paragraph 7(d) will be granted and he is relieved of the requirement to maintain or seek employment as a condition of his pretrial release.

Villareal seeks relief from the requirement in condition 7(m) that he refrain from any use or possession of alcohol and requests that such condition be modified to require only that he refrain from the excessive use of alcohol. Villareal has a conviction for driving under the influence in 1998, various convictions for disorderly conduct or behavior in the past several years, and he has acknowledged that he regularly attended Alcoholic Anonymous meetings in the past. Furthermore, Villareal is on a strict medication regimen which was provided to Pretrial Services by his doctor, Dr. Kristine McVea. A cursory review of the list of these medications reveals that consumption of alcohol is contraindicated when taking any of these medications. Accordingly, Villareal's request to modify the requirement in condition 7(m) that he refrain the use of any alcohol will be denied.

IT IS SO ORDERED.

DATED this 28th day of September, 2007.

BY THE COURT:

s/ Thomas D. Thalken

United States Magistrate Judge